

04-109
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELECTRONICALLY FILED

DOC #:

DATE FILED: 10/11/07

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AMEREX GROUP, INC. and
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AMEREX USA INC,)

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Plaintiffs,)

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- against -)

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LEXINGTON INSURANCE COMPANY AND
)
WESTCHESTER SURPLUS LINES
)
INSURANCE COMPANY,)

)
)
Defendants.)
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CASE NUMBER:
07 CV 3259 (HB)

ORDER

HAROLD BAER, JR. U.S.D.J.

Pending before the Court are (i) the motion of Defendants LEXINGTON INSURANCE COMPANY AND WESTCHESTER SURPLUS LINES INSURANCE COMPANY ("Defendants") for Partial Summary Judgment compelling enforcement of the appraisal clauses of the insurance policies at issue; (ii) the cross-motion of the Plaintiffs AMEREX GROUP, INC. and AMEREX USA INC, ("Plaintiffs") seeking Partial Summary Judgment dismissing Defendants Second Affirmative Defense which demand appraisal of the insurance.

The motion of the Defendants is hereby granted as to enforcement of the appraisal clauses of the insurance policies at issue, and the cross-motion of the Plaintiffs' is denied.

Plaintiffs have appointed as their appraiser Edwin Hochberg. Defendants have appointed as their appraiser Peter Fogarty. The parties' appraisers were unable to agree on the identity of an umpire. In accordance with the policy of insurance, and after conferring with the parties, the Court has selected Michael Hess as umpire of the appraisal panel. The appraisers and umpire are directed to confer and arrange for an expeditious resolution of this appraisal.

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The subject lawsuit is hereby stayed pending the appraisal process, except for the purposes of facilitating the appraisal proceeding.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Harold Baer', is written over a horizontal line.

HON. HAROLD BAER, U.S.D.J.

Dated: New York, New York
October 10, 2007